

**Remarks/Arguments:**

The above Amendments and these Remarks are in reply to the Office Action mailed December 24, 2003. A fee is due for the addition of any new claims.

Claims 1-39 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1-39. The present Response amends claims 1, 2, 4-7, 19, 20, 22, 26, 27, 29, 33, 34, 36, and adds new claims 40-105, leaving for the Examiner's present consideration claims 1-105. Reconsideration of the rejections is requested.

The Applicant thanks the Examiner for the telephone interview of March 22, 2004. In this telephone interview, the Attorneys' for the Applicant and the Examiner discussed the Rivera et al. reference which is the basis of the rejections of claims 1-39 discussed below. The Examiner suggested that claims could more directly cover a multi-tier licensing system, including a user tier, a remote node tier, and a master node tier, such as that shown in figure 2 of the present invention's specification to highlight the distinctions, from the Rivera reference. The Applicant has added new claims 48-105 to cover this aspect of the invention. These new claims are believed to be allowable.

Independent claims 48 and 62 include three licensing management tiers including a user tier, a remote node tier, and master node tier in a computer network. The remote node tier produces counts of the number of licensed software users associated with the remote nodes. Some of the remote nodes in a remote node tier allowing multiple users at multiple users computers to run the license software program concurrently. The counts are received by a master node tier, including a master node, which receives the counts from the remote nodes and calculates the total number of licensed software users.

Rivera et al. does not disclose, suggest or give a motivation for such a system. The architecture of the Rivera et al. is shown in figure 3 of the Rivera et al. reference. In figure 3, Clients 68 with client programs 66 interact with a server 62. The server 62 maintains an audit log of the starts and stops of the client programs 66 at the clients 68. License monitoring software 74 at the server 62 goes through the audit log to determine the number of active

licensed software users. The system of Rivers as shown in figure 3 is a classic two-tier client-server architecture with a user tier including clients 68 and a server tier including the server 62. The Rivera system does not send counts from the server 62 to another tier. Additionally, no indication is given in the Rivera reference that a client 68 (user workstation or PC) is associated with multiple user computers. Rivera et al. in column 6, lines 5-11 clearly states that the licensed software executes on the clients 68; there is no lower tier of user computers.

Because of the differences between the new claims 48 and 62 and the Rivera et al. reference, these independent claims are believed to be allowable. Claims 49-61 and 63-75 are dependent upon the independent claims 48 and 62 for that reason and for the additional limitations of these claims are believed to be allowable.

New claims 76 and 91 have also been added. Each of these independent claims cover a multi-tier licensing system with a user tier including user computers, a remote node tier including remote nodes enabling users to run a license software program and a master node tier including a master node receiving indications from the remote nodes and calculating a total number of license software users. The remote nodes produce indications of the software usage of the license software program by users associated with the remote node.

Rivera does not suggest such a system. Rivera is a two-tier license management system. For the above discussed reasons, claims 76 and 91 are believed to be allowable. The dependent claims 77-90 and 92-105 are dependent upon these independent claims and for that reason are believed to be allowable.

The disclosure was objected to since in the last line of page 26 the phrase "figure 13" should be "figure 14". In the specification, the phrase "figure 13" has been changed to "figure 14".

Claims 1, 19, 26 and 33 are objected to due to a number of informalities. These claims have been amended to make these claims more clear. The changes to the claims are not believed to reduce the scope of the claims.

Claims 2-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. Claim 2 and other claims have been amended to change the phrase “nodes” to the phrase - - plurality of nodes --. This change provides a proper and antecedent basis for this limitation. This change is not believed to change the scope of the claims.

Claims 1, 5-8, 10, 13-14, 14, 19, 23, 25-26, 30, 32-33, 37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivera et al., U.S. Patent 6,056,786. Claims 2, 9, 11-12, 15-16, 18, 20, 24, 27, 31, 34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rivera et al. U.S. Patent 6,056,786. The Applicant respectfully traverses these rejections.

Rivera describes a technique in which client programs interact with a server. Indications of the start and stop of client programs are stored in an audit log at the server. The audit log at the server is examined to determine the number of licensed software users.

Paragraph 6 line 51-54 of Rivera et al., states that the Rivera device counts the number of users transacting with the server program by reviewing the audit logs entries for a number of time intervals during a time period. This counting is done at the server 62 only. The other nodes do not count the number of users. In the example of Rivera et al., the count is not transmitted from the server to another location. The Rivera et al. device relies upon a client/server architecture and more particular relies on an audit log located at a central server.

Independent claims 1, 19, 26, 33 of the present invention, include steps in which users are counted at a plurality of nodes to obtain counts of the software license user at the nodes. The counts are transmitted to a master node. Such steps are not disclosed, suggested or given a motivation for in the Rivera et al., reference. For this reason, these independent claims are believed to be allowable.

The system of independent claims 1, 19, 26 and 33 does not rely upon the total number of licensed software users being determinable from an audit log from a central location, such as the central server 62 as described in the Rivera et al., patent.

The invention of independent claims 1, 19, 26 and 33 has the advantage that the users can be counted at multiple nodes and the counts of the users from the nodes can be transmitted to a master node. This provides a number of advantages over the system of Rivera et al. First, the master node need not interact with another node each time a user needs to start the licensed software. If the master node fails, the other nodes can continue to maintain the user counts. When the master node comes back online, the total count can be determined using the counts from the other nodes. When the server goes down in the system of Rivera et al., it is possible that this will prevent the licensed software from starting. Even if the licensed software starts, there is no audit log available upon the failure of the server, so upon the server coming online, a user count cannot be done. For the above reasons, the independent claims are believed to be allowable, and such is respectfully requested.

The dependent claims 2-18, 20-25, 27-32, 34-39 are dependent upon these independent claims and for that reason and because of the additional limitations of these dependent claims; the dependent claims are believed to be allowable.

Examples of patentable distinctions in the dependent claims include the sending a sanity scan message along with a count from a node to the master node as described in claims 2, 20, 27, and 34. This is not disclosed or suggested in the Rivera et al., reference.

Claims 3, 21, 28 and 35, include deallocating licenses allocated to users of any node for which a sanity scan result message has not been received. This is not shown or suggested in any cited reference.


Claims 1-105 remain in the present invention and for the above discussed reasons are believe to be allowable.

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if she can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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